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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,210	10/02/2003	Felix Anthony Perriello	GLOB64012	9639

7590 03/17/2005

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EXAMINER
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BARRY, CHESTER T

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/677,210

**Applicant(s)**

PERRIELLO, FELIX ANTHONY

**Examiner**

Chester T. Barry

**Art Unit**

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-21 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 02 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

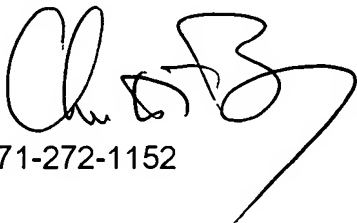
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Art Unit: 1724

Claims 1 – 21 are rejected under 35 USC Sec. 102(b) as anticipated by Winkler.

Claim construction notes: In claim 1, the expression “for treating wastewater,” is merely a statement of intended use. A mere intended use does not structurally limit an apparatus claim. Claim 3 does not narrow the scope of the apparatus. Claim 3 merely narrows the scope of the intended use of the claimed apparatus, i.e., introduction of air in particular, but does not narrow the structure of the “means for introducing.” Per claim 4, stating that the gas is butane does not limit the scope of the apparatus because the gas itself is not an element of the “means for introducing” the gas. The phrase, “means for introducing an alkane into the wastewater” is a “means plus function” recitation, the construction of which is governed by 35 USC Sec. 112, 6<sup>th</sup>. The structure shown by Winkler, described in detail below, is deemed to be a 112/6<sup>th</sup> equivalent of the embodiment shown in applicant’s Fig. 1 – 4, and 10.

USP 5597491 to Winkler describes an apparatus in which a gas cylinder 28 is operatively connected via 31, 33 to a submerged gas diffuser 39 placed near the bottom of a wastewater treatment tank 13. Separately, a system of air distribution pipes 27 provide air to the diffusers.



571-272-1152

**CHESTERT T. BARRY**  
**PRIMARY EXAMINER**